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OFFICE OF PETITIONS

In re Application of Partovi et al. :
Patent No. 7,571,226 :
Issued: August 4, 2009 :
Application No. 09/523,853 :
Filed: March 13, 2000 :
Attorney Docket No. 418268640US8 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the “Application for Patent Term Adjustment Reconsideration Under 37 C.F.R. § 1.705(B)” filed October 5, 2009. Applicants request the determination of patent term adjustment on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the first Notice of Allowance be increased from zero (0) days to one hundred sixty (160) days.

The request is **DISMISSED**.

The request states, “Applicant requests reconsideration of the patent term adjustment indicated in the Notice of Allowance of May 4, 2009.” Pursuant to 37 C.F.R. § 1.705(b), any request for reconsideration of the patent term adjustment in the notice of allowance “must be filed no later than the payment of the issue fee.” The issue fee was paid June 4, 2009, and the instant request was filed October 5, 2009. Therefore, the request is untimely and must be dismissed.

37 C.F.R. § 1.705(b) states, “An application for patent term adjustment under this section must be accompanied by ... [t]he fee set forth in § 1.18(e). Neither the fee under 37 C.F.R. § 1.18(e) nor a general authorization to charge any required fees accompanied the instant application for patent term adjustment. As a result of applicants’ failure to submit the required fee, the instant request must be dismissed.

Pursuant to 37 C.F.R. § 1.702(f), the provisions of 37 C.F.R. §§ 1.703-1.705 only apply to original applications, other than designs, filed on or after May 29, 2000. The instant application was filed March 13, 2000.¹ Therefore, the provisions of 37 C.F.R. §§ 1.703-1.705 are inapplicable and the instant request under 37 C.F.R. § 1.705(b) must be dismissed.

¹ The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay for original applications, other than designs, filed on or after May 29, 2000.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



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